

Court of Appeals, State of Michigan

ORDER

People of MI v Jacob Israelita-Mendez

Docket No. 307535

LC No. 11-007465-FH

Kurtis T. Wilder
Presiding Judge

Kirsten Frank Kelly

Karen M. Fort Hood
Judges

In lieu of granting the application, the Court orders pursuant to MCR 7.205(D)(2), that the November 21, 2011, order of the Wayne Circuit Court granting defendant's motion to suppress his statement hereby is REVERSED. When determining whether a defendant was in custody at the time of interrogation, courts review the totality of the circumstances. *People v Coomer*, 245 Mich App 206, 219; 627 NW2d 612 (2001). The key question is whether the accused could reasonably have believed that he was not free to leave. *Id.* The objective circumstances here reveal that defendant voluntarily went to the state police post, was not treated as an arrestee, was allowed to leave and was never told that he was under arrest or that he had to stay with the police. Defendant was not handcuffed in the interview room, was not threatened, was not told that he had to stay, and was not formally arrested. He was interviewed for less than two hours. These circumstances do not reflect any restraint on defendant's freedom of movement of the degree associated with a formal arrest. Thus, defendant's statement should not have been suppressed. See *People v Mendez*, 225 Mich App 381, 384; 571 NW2d 528 (1997). The case is REMANDED to the circuit court for further proceedings consistent with this order.

This order is to have immediate effect, MCR 7.215(F)(2).

The Court retains no further jurisdiction.



A true copy entered and certified by Larry S. Royster, Chief Clerk, on

JAN 27 2012

Date

A handwritten signature in black ink, appearing to read "Larry S. Royster", is written over a horizontal line. Below the line, the words "Chief Clerk" are printed.

Chief Clerk